



January 14, 2019

SENT VIA EMAIL: legal@therebel.media

File No. 2018-11-014

The Rebel News Network Ltd.
PO Box 61056, Eglinton/Dufferin RO
Toronto, ON M6E 5B2

Attention: Mr. Ezra Levant and Mr. Keenan Beexte

RE: Notice of Adverse Finding and Proposed Penalty

Dear Sirs:

I write in relation to an investigation undertaken by my Office regarding a complaint from Elections Alberta that The Rebel News Network Ltd. ("Rebel Media") engaged in political advertising while not registered as a third-party advertiser, in violation of section 9.1(1) of the *Election Finances and Contributions Disclosure Act* ("EFCDA"). Specifically, Rebel Media posted a political advertisement in the form of a billboard on Highway 2 near Innisfail, Alberta with the message "40% OF GRADE 9 STUDENTS FAILED PROVINCIAL EXAMS – ALBERTA CAN DO BETTER THAN DAVID EGGEN www.FireEggen.ca".

Relevant Statutory Provisions:

Section 9.1(1) of the EFCDA specifies when a third party is required to be registered with Elections Alberta:

Registration of third parties

9.1(1) A third party shall apply for registration under this section

- (a) when it has incurred expenses of \$1000 or plans to incur advertising expenses of at least \$1000 for election advertising or political advertising, or
- (b) when it has accepted advertising contributions of \$1000 or plans to accept advertising contributions of at least \$1000.

Section 44.1(1) of the EFCDAs defines political advertising as follows:

44.1(1)(g) “political advertising” means, subject to subsection (1.1), the transmission to the public by any means, at any time other than during an election advertising period, of an advertising message that promotes or opposes a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant or the election of a registered candidate, including an advertising message that takes a position on an issue with which a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant or a registered candidate is associated,

Findings of the Investigation

1. In November 2018, Rebel Media sponsored an advertisement in the form of a billboard near Innisfail, Alberta.
2. The message posted on the billboard appears to constitute political advertising because it opposes a member of the Legislative Assembly and was in place prior to December 2018 (November 23, 2018 to November 30, 2018).
3. Third party advertising that occurs in the period commencing December 1 in the year immediately preceding the year in which a general election is held and ending at the end of the polling day is election advertising. Advertising by third parties that occurs outside of the election advertising period is political advertising.
4. In sponsoring this political advertisement, Rebel Media incurred expenses exceeding \$1,000. Our investigation confirmed that the expenses incurred were approximately \$2,730.
5. Rebel Media identifies itself as a “fearless source of news, opinion and activism that you won’t find anywhere else!” The website hosts a “Fire David Eggen Campaign”. Rebel Media is an online news organization. In addition, as part of its mandate as a source of “activism”, Rebel Media has purchased advertising space on a billboard.
6. According to the legislation, Rebel Media is required to be registered as a third party advertiser with Elections Alberta.

Notice of Proposed Penalty

Section 51.01(2) of the EFCDAs states as follows:

51.01(2) If the Election Commissioner is of the opinion that

(a) a person has made one or more contributions in excess of a limit prescribed by section 17(1) or 18(1),

(b) a prohibited person or entity has made a contribution in contravention of section 16,

(b.1) a person, a political party, a constituency association or a third party fails to comply with a direction of the Election Commissioner,

(c) a prohibited corporation, a person ordinarily resident outside Alberta or a trade union or employee organization that is not an Alberta trade union or Alberta employee organization has made an election advertising contribution in contravention of section 44.2(3), or

(d) a person, a prohibited person or entity, a political party, a constituency association or a third party has contravened a provision of this Act, otherwise than as referred to in clause (a), (b) or (c),

the Election Commissioner may serve on the person or entity either a notice of administrative penalty requiring the person or entity to pay to the Crown the amount set out in the notice, or a letter of reprimand.

In assessing the appropriate penalty, I have considered all the information obtained during the investigation and am of the opinion that an administrative penalty would be appropriate in the circumstances. I believe that Rebel Media intended to convey a message that opposes a member of the Alberta Legislative Assembly.

Section 49.1 of the EFCDA establishes the penalties to be assessed:

49.1 A third party that contravenes a provision of this Act is guilty of an offence and liable to a fine not exceeding

(a) \$10 000 if the third party is a person;

(b) \$100 000 if the third party is a trade union, employee organization, corporation or other organization.

In my initial assessment of this matter, I am considering an administrative penalty of \$5,500.

In circumstances where the Election Commissioner imposes an administrative penalty, publication of the findings, decisions, and any additional information that the Election Commissioner considers to be appropriate is required under Section 5.2(3)(a) of the EFCDA. This means the outcome of this investigation will be published on our website.

You are invited to respond to this notice and include any information you consider to be relevant prior to my final assessment and issuance of an appropriate penalty.

Please provide your written response on or before (30 days).

If you require any clarification or assistance, please contact Steve Kaye, Manager, Investigations by email at: steve.kaye@albertaelectioncommissioner.ca or by phone at 780-983-8357.

Yours sincerely,



Lorne R. Gibson
Election Commissioner of Alberta
/ss

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Attention: Mr. Fred Kozak, Q.C. (via email fkozak@rmrf.com)
Your File 114261-002-FSK